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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9 **EASTERN DIVISION - RIVERSIDE**

10 LAUREN BYRNE, *et al.*,

11 Plaintiffs,

12 v.

13 CITY OF INDUSTRY HOSPITALITY
14 VENTURE, INC., *et al.*,

15 Defendants.

Case No: 5:17-cv-00527 JGB (KKx)

**ORDER GRANTING
PLAINTIFFS' UNOPPOSED
MOTION FOR CLASS
CERTIFICATION AND
PRELIMINARY APPROVAL OF
SETTLEMENT.**

Date: October 30, 2017
Time: 9:00 a.m.
Place: Courtroom 1
Judge: Hon. Jesus G. Bernal

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18 **[AMENDED PROPOSED] ORDER**

19 On October 4, 2017, Plaintiffs filed their Unopposed Motion for Class
20 Certification and Preliminary Approval of Class Action Settlement with
21 Defendants ("Spearmint Rhino"). The Court, having reviewed the motion, the
22 settlement agreement, the pleadings and other papers on file in this action, and the
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1 statements of counsel and the parties, hereby finds that the motion should be
2 GRANTED.

3 **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

4 1. For purposes of this Order, except as otherwise set forth herein, the
5 Court adopts and incorporates the definitions contained in the settlement
6 agreement, to the extent not contradictory or mutually exclusive.

7 2. The Court hereby preliminarily approves the settlement agreement.

8 3. The Court finds that the settlement falls within the range of possible
9 final approval and that there is a sufficient basis for notifying the settlement class
10 and for setting a Fairness Hearing.

11 4. The Court finds that there is sufficient evidence to support
12 certification of a FLSA collective action concerning “similarly situated” exotic
13 dancers at Spearmint Rhino nationwide. Therefore, pursuant to 29 U.S.C. § 216(b),
14 the Court certifies the following FLSA settlement class for purposes of this Motion
15 only:

16 a. All current and former exotic dancers who worked at any
17 Spearmint Rhino, Dames N Games and/or Blue Zebra location in the United
18 States, excluding the state of Nevada, from any time starting three years
19 before February 3, 2017 to the present.

20 5. Pursuant to Federal Rule of Civil Procedure 23, the Court certifies the
21 following settlement class for purposes of this Motion only:

22 a. All current and former exotic dancers who worked at any
23 Spearmint Rhino, Dames N Games and/or Blue Zebra location in the State
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1 of California from any time starting four years prior to February 3, 2017
2 until the date the case resolves.

3 b. All current and former exotic dancers who worked at any
4 Spearmint Rhino location in the State of Florida from any time starting five
5 years prior to February 3, 2017 until the date the case resolves.

6 c. All current and former exotic dancers who worked at any
7 Spearmint Rhino location in the State of Idaho from any time starting three
8 years prior to February 3, 2017 until the date the case resolves.

9 d. All current and former exotic dancers who worked at any
10 Spearmint Rhino location in the State of Iowa from any time starting three
11 years prior to February 3, 2017 until the date the case resolves.

12 e. All current and former exotic dancers who worked at any
13 Spearmint Rhino location in the State of Kentucky from any time starting
14 three years prior to February 3, 2017 until the date the case resolves.

15 f. All current and former exotic dancers who worked at any
16 Spearmint Rhino location in the State of Minnesota from any time starting
17 three years prior to February 3, 2017 until the date the case resolves.

18 g. All current and former exotic dancers who worked at any
19 Spearmint Rhino location in the State of Oregon from any time starting three
20 years prior to February 3, 2017 until the date the case resolves.

21 h. All current and former exotic dancers who worked at any
22 Spearmint Rhino location in the State of Texas from any time starting three
23 years prior to February 3, 2017 until the date the case resolves.
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1 6. The Court further finds that the prerequisites to certifying a settlement
2 class under Rule 23 are satisfied for settlement purposes in that: (a) there are
3 thousands of geographically dispersed settlement class members, making joinder of
4 all members impracticable; (b) there are questions of law and fact common to the
5 settlement class which predominate over individual issues; (c) the claims or
6 defenses of the settlement class plaintiffs are typical of the claims or defenses of
7 the settlement class; (d) the plaintiffs will fairly and adequately protect the interests
8 of the settlement class, and have retained counsel experienced in wage and hour
9 class action litigation who have, and will continue to, adequately represent the
10 settlement class; and (e) a settlement class resolution is superior to individual
11 settlements.

12 7. The Court hereby appoints Plaintiffs Lauren Byrne, Bambi Bedford,
13 Jenetta L. Bracy, and Jennifer Disla, as Representative Plaintiffs of the settlement
14 classes listed above.

15 8. The Court appoints the law firms of Shellist Lazarz Slobin, LLP;
16 Baron & Budd, P.C.; and Napoli Shkolnik PLLC to serve as Class Counsel for the
17 settlement class.

18 9. The Court approves the Notice incorporated to Exhibit A as Exhibit 2
19 as a proper Notice to the Class. The Court finds the Notice is: (i) the best notice
20 practicable; (ii) reasonably calculated to, under the circumstances, apprise the
21 settlement class members of the proposed settlement and of their right to object or
22 to exclude themselves as provided in the settlement agreement; (iii) reasonable and
23 constitute due, adequate, and sufficient notice to all persons entitled to receive
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1 notice; and (iv) meet all applicable requirements of due process and any other
2 applicable requirements under federal law.

3 10. The Court appoints Kurtzman Carson Carlson, LLC, & Co as the
4 claims administrator. Kurtzman Carson Carlson, LLC, & Co shall provide direct
5 notice of the settlement to all members of the settlement class pursuant to the terms
6 of the settlement agreement and within twenty (20) days after being provided with
7 contact information from Defendants and after performing national change of
8 address updates to the Class Member list.

9 11. Each settlement class member shall have the right to be excluded from
10 the settlement class by mailing a request for exclusion to the claims administrator
11 as specified in the Notice, and by the date specified in the Notice. Requests for
12 exclusion must be in writing and set forth the name and address of the person who
13 wishes to be excluded and must be signed by the class member seeking exclusion.

14 12. Any settlement class member who does not properly and timely
15 request exclusion from the settlement class as provided above shall, upon final
16 approval of the settlement, be bound by the terms and provisions of the settlement
17 so approved, including but not limited to the releases, waivers, and covenants
18 described in the agreement, whether or not such person objected to the settlement
19 agreement.

20 13. Each settlement class member who has not timely excluded himself or
21 herself from the settlement shall have the right to object to the settlement by
22 mailing written objections to the claim administrator as specified in the Notice, and
23 by the date specified in the Notice. Failure to timely file and serve written
24 objections will preclude a class member from objecting to the settlement.

1 14. The Court will conduct a Fairness Hearing to determine the following:

2 a. Whether each proposed settlement is fair, reasonable, and
3 adequate and should be granted final approval;

4 b. Whether final judgment should be entered dismissing the
5 claims of the settlement class against Defendant;

6 c. Approval of the plan of allocation; and

7 d. Such other matters as the Court may deem appropriate.


8 15. The Court orders the following schedule for further proceedings:

- 9 • **COMPLETED** - Defendants to give appropriate notice under CAFA, 28
10 U.S.C. § 1715.
- 11 • **NOVEMBER 13, 2017** - Defendants to provide updated Class Member
12 data, if any, for preparation of the Notice and updated plan of allocation of
13 Individual Settlement Payments.
- 14 • **DECEMBER 4, 2017** - Claims Administrator to mail the Notice to Class
15 Members.
- 16 • **FEBRUARY 2, 2018** - FLSA opt-in period and Claim submission period
17 ends.
- 18 • **FEBRUARY 2, 2018** - Deadline to submit Requests for Exclusion and
19 objections to the Settlement.
- 20 • **FEBRUARY 23, 2018** - Plaintiffs to file Motions for Fees, Enhancement
21 Awards, and Class Representative Incentive Fees.
- 22 • **FEBRUARY 23, 2018** - Final Approval papers to be filed.
- 23 • **FEBRUARY 28, 2018** - Last day for Parties to respond to any objections.
- 24 • **MARCH 5, 2018** - Final Approval Hearing.

1 16. Plaintiffs are granted leave to file their Second Amended Complaint
2 and shall do so within 5 days from the date of this Order.

3 17. The Court retains exclusive jurisdiction over this action to consider all
4 further matters arising out of or connected with the settlement.

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6 SO ORDERED this 7th day of November, 2017.

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10 Honorable Jesus G. Bernal
11 United States District Judge
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